

NO. 23355

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Interest of DOE CHILDREN:

JOHN DOE Born on December 22, 1997;
and
JOHN DOE Born on December 22, 1997,
Minors.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 98-05193)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

In this Child Protective Act matter, see Hawai'i Revised Statutes (HRS) chapter 587 (1993 & Supp. 2000), Mother and Father appeal from the family court's: (1) order, filed on February 28, 2000, (a) revoking an existing service plan, (b) dissolving their parental rights in their twin sons (hereinafter, "the Children"), (c) awarding permanent custody of the Children to the appellee Department of Human Services (DHS), and (d) establishing a permanent plan for the adoption of the Children; (2) order, filed on March 10, 2000, denying Father's motion for reconsideration; (3) order, filed on March 16, 2000, denying Mother's motion for reconsideration; and (4) written findings of fact (FOFs) and conclusions of law (COLs), filed on May 3, 2000.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that the family court's FOFs, and, to the extent that they

present mixed questions of law and fact, its COLs, see In re John Doe, Born on September 14, 1996, 89 Hawai'i 477, 486-87, 974 P.2d 1067, 1076-77 (App.), cert. denied, (March 17, 1999); In re Jane Doe, Born on June 4, 1987, 7 Haw. App. 547, 558, 784 P.2d 873, 880 (1989), which are challenged by Father on appeal, are not clearly erroneous and, consequently, the family court did not abuse its discretion in terminating Father's and Mother's parental rights, awarding permanent custody of the Children to the DHS, and implementing the permanent plan for the Children.

We further hold that, assuming, arguendo, the family court erred in not conducting a hearing with regard to Mother's motion for reconsideration, the error was harmless beyond a reasonable doubt, insofar as Mother's motion did not present any new evidence, argument, or authority that could not have been presented to the family court during the permanent plan hearing and, moreover, the evidence that Mother proffered would not have affected the import of the family court's FOFs regarding Mother's failure to address her drug addiction, which constituted substantial evidence supporting the family court's conclusion that it was not reasonably foreseeable that she would become able to provide the Children with a safe family home within a reasonable period of time, even with the assistance of a service plan.

Therefore,

IT IS HEREBY ORDERED that the first circuit family court's (1) order awarding permanent custody to DHS, filed on February 28, 2000, (2) order denying Father's motion for reconsideration, filed on March 10, 2000, (3) order denying Mother's motion for reconsideration, filed on March 16, 2000, and

(4) written FOFs and COLs, filed on May 3, 2000, from which Mother's and Father's appeals were taken, are affirmed.

DATED: Honolulu, Hawai'i, March 16, 2001.

On the briefs:

Dwight C. H. Lum, for
mother-appellant

Jeffry R. Buchli, for
father-appellant

Julio C. Herrera (DAG) and
Mary Anne Magnier (DAG)
for appellee
Department of Human Services